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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,960	01/19/2001	Mitsukazu Momosaki	ALPHA 3.0-001	9159

7590 06/26/2002
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EXAMINER

PRONE, JASON D

ART UNIT PAPER NUMBER

3724

DATE MAILED: 06/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/765,960

Applicant(s)

MOMOSAKI, MITSUKAZU

Examiner

Jason Prone

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities: In the second full paragraph of claim 1, the phrase "...said upper blade end having a second blade edge..." should be replaced with "...said lower blade end having a second blade edge...".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim ⁷~~8~~ recites the limitations "the outer side edges" on line 1 and "the inner edges" on line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz.

Art Unit: 3724

Schwartz discloses the same invention including a cutter body including upper and lower handles (14 & 30) having a pivot securing the handles together (38), that the lower handle has an upper blade end (20) extending beyond the pivot point (Fig. 1) with a first blade edge (42), that the upper handle has a lower blade end (34) extending beyond the pivot point and opposing the upper blade end (Fig. 1) with a second blade edge (18), that the handles and blade ends are pivotable about the pivot to provide a scissor-like action (Figs. 2 & 3), that the first and second blade edges are disposed in opposing positions for cutting brittle material between the blade edges (Figs. 6B & 6C), that the outer peripheral ends of the opposing blade ends are curved (Fig. 3), a return spring (24), a stop means (27) connected between opposite ends of the upper and lower handles (Fig. 2), that the opposing blades edges are perpendicular to the surface of the brittle material (Fig. 6), and curved blade edges with the outer side edges having a closer spacing between than the inner edges (Fig. 4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz in view of Sylvester. Schwartz discloses the invention {listed above} but fails to disclose that one of the opposing blade edges has an angled inner surface providing a sharp edge. Sylvester teaches the use of an opposing blade edge with an angled

Art Unit: 3724

inner surface (a^7) with a sharp edge (7). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided Schwartz with an opposing blade edge with an angled inner surface to allow for an easier cut.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz in view of Berg. Schwartz discloses the invention {listed above} but fails to disclose a guide secured to the lower blade end. Berg teaches the use of a guide (18) secured to the lower blade end (Fig. 3). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided Schwartz with a guide to better line up the material to be cut.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zemanek, Atkeson, Price, Bannett, Insolio, Maglia, Ames, Burnham, Martin, and Lin.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

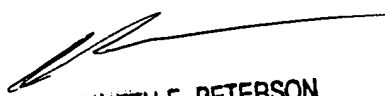
Application/Control Number: 09/765,960

Art Unit: 3724

Page 5

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June 19, 2002



KENNETH E. PETERSON
PRIMARY EXAMINER